

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10HD-005

Hawaii

Set Aside to County of Hawaii for Park Purposes, Piihonua, South Hilo, Hawaii,
Tax Map Key: 3rd/ 2-3-04:01.

APPLICANT:

County of Hawaii

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Piihonua situated at South Hilo, Hawaii, identified by
Tax Map Key: 3rd/ 2-3-04:01, as shown on the attached maps labeled Exhibits A-1
through A-4.

AREA:

17,903 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	Open and SMA

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE:

Vacant and unencumbered, except for a right-of-entry permit issued to Malama Kaipalaoa Working Group to allow it to clean the area of grass, brush and rubbish.

PURPOSE:

Park and ancillary purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Malama Kaipalaoa Working Group (MKWG) has spearheaded a community effort in recent years to have the subject shorefront parcel and an adjoining County parcel, together commonly known as Kaipalaoa Landing, turned into a County park. MKWG explains that Kaipalaoa Landing is a significant Hawaiian historic site associated with an account of the origin of the place name "Hilo", and was also King Kamehameha's favorite surf spot. MKWG additionally states that King Kamehameha proclaimed the Kanawai Mamalahoe – Law of the Splintered Paddle – at the Kaipalaoa Landing area.

In later years during the development of Hilo town, Waianuenue Avenue was built in the vicinity, extending from a mauka direction all the way to a seawall at the shoreline. The subject parcel, TMK: 3rd/ 2-3-04:01 (Parcel 1), was located north of Waianuenue Avenue. See Exhibit A-4 attached. South of Waianuenue Avenue was a wharf (removed prior to 1909), and four small parcels of State land were located between Waianuenue Avenue and the wharf. The County has indicated that it does not need the four smaller parcels, Tax Map Keys: 3rd/ 2-3-03:01, 04, 27 & 28, for its park.

The construction of Belt Road (Highway 19) along Hilo Bay Front cut Parcel 1 and a remnant of Waianuenue Avenue off from downtown Hilo without providing a safe pedestrian access to the area. Since that time, the inaccessibility of the land has resulted in light recreational use of Kaipalaoa Landing.

The County of Hawaii now desires a formal set-aside of Parcel 1 to the County to allow it to develop a shorefront park in the area.

As a shorefront parcel, Parcel 1 is suited for recreational use under appropriate weather and sea conditions. Due to the small size of the parcel and its location in the Special Management Area, significant park improvements may not be possible, and the lands are likely prone to flooding and wave wash during high surf in any event. Under these circumstances, there is no higher and better use of the area than recreational use, assuming that a safe pedestrian access can be developed across Kamehameha Avenue and Belt Road onto the lands under County control and management. The proposed use fully utilizes the requested land.

Staff solicited comments on a draft of this submittal from the agencies listed below with the results indicated.

Agency	Comment
DLNR – Historic Preservation Office	No response
DLNR – Office of Conservation and Coastal Lands	No comments and no objections
DLNR – Engineering	The project site is located in Flood Zone VE. The National Flood Insurance Program (NFIP) regulates developments in Zone VE. The project must comply with NFIP's rules and regulations whenever development within a Special Flood Hazard Area is undertaken.
DLNR – Division of Aquatic Resources	No objections
DLNR – DOFAW – Na Ala Hele	No response
DLNR – State Parks	No response
DLNR – DOCARE	No response
DOT – Highways Division	No objections and no comments
DOT – Harbors Division	No objections
DOH – Environmental Division	No response
Office of Hawaiian Affairs	No response
County of Hawaii – Planning Department	No response
County of Hawaii – Parks & Recreation	No response
County of Hawaii – Property Management	No objections
County of Hawaii – Fire Department	No response
County of Hawaii – Police Department	Does not anticipate any significant impact to vehicular traffic. Public safety is a concern due to lack of crosswalks to access the area. No parking is available in the

	immediate vicinity.
County of Hawaii – Department of Public Works	No comments
County of Hawaii – Department of Water Supply	No objections. Department of Water Supply maintains no water system in the parcel.
County of Hawaii – Environmental Management	No response
United States Coast Guard	No response
United States Army Corps of Engineers	No response

Regarding the comments from the Department of Land and Natural Resources' Engineering Division, the County will be responsible for complying with any applicable rules and regulations of the NFIP. Regarding the Police Department's concerns with pedestrian access, the County will be responsible for establishing a safe route for the public to the area.

On July 25, 2009, Land Division issued Right-of-Entry No. 3803 (ROE 3803) to MKWG for the period August 1, 2009 to July 10, 2010 to allow it to clean the area of grass, brush and rubbish. ROE 3803 has now expired.

Staff is including a recommendation below that the seaward boundary of Parcel 1 be established in the executive order setting aside the property at the mean lower low water line. This will give the County management jurisdiction over the entire area instead of leaving Land Division with management responsibility for a strip of land seaward of the shoreline.

As mentioned above, Waianuenue Avenue used to extend all the way to the seawall north of the four small parcels of the subject land. The current tax map shows an empty space for the former road lot. It has no parcel number. The County claims ownership of this land as a former County road, and for that reason has excluded it from the requested set-aside. If further title research should show that the State has an interest in the former road lot, the County's request may need to be amended to address such interest.

Also as mentioned above, the subject lands are located in the Special Management Area. The County will need to comply with applicable requirements for uses in such areas, as well as environmental assessment requirements under Chapter 343, HRS, prior to the establishment of a park at Kaipalaoa Landing. Additionally, the County will need to comply with any applicable subdivision or consolidation and resubdivision requirements.

The County has intentionally excluded the four small parcels of State land in the area from its request. Accordingly, staff is including a recommendation below that the public

access route to be established to the park not traverse the four small parcels. For liability reasons, the County should be responsible for maintaining such access routes over land under its control and management.

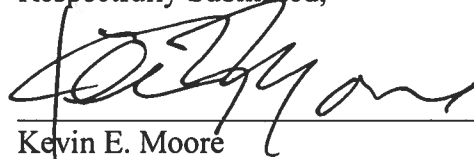
RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the County of Hawaii under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The seaward boundary of the set-aside shall be established in the executive order at the mean lower low water line;
 - B. The public access to be established to the park shall not traverse any portion of the four small parcels of State land in the area designated as Tax Map Keys: 3rd/ 2-3-03:01, 04, 27 & 28;
 - C. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - D. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - E. Review and approval by the Department of the Attorney General; and
 - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of an immediate management right-of-entry permit to County of Hawaii covering the subject land under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and

- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kevin E. Moore", written over a horizontal line.

Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read "Laura H. Thielen", written over a horizontal line.

Laura H. Thielen, Chairperson

A small, handwritten signature in black ink, written over a horizontal line.



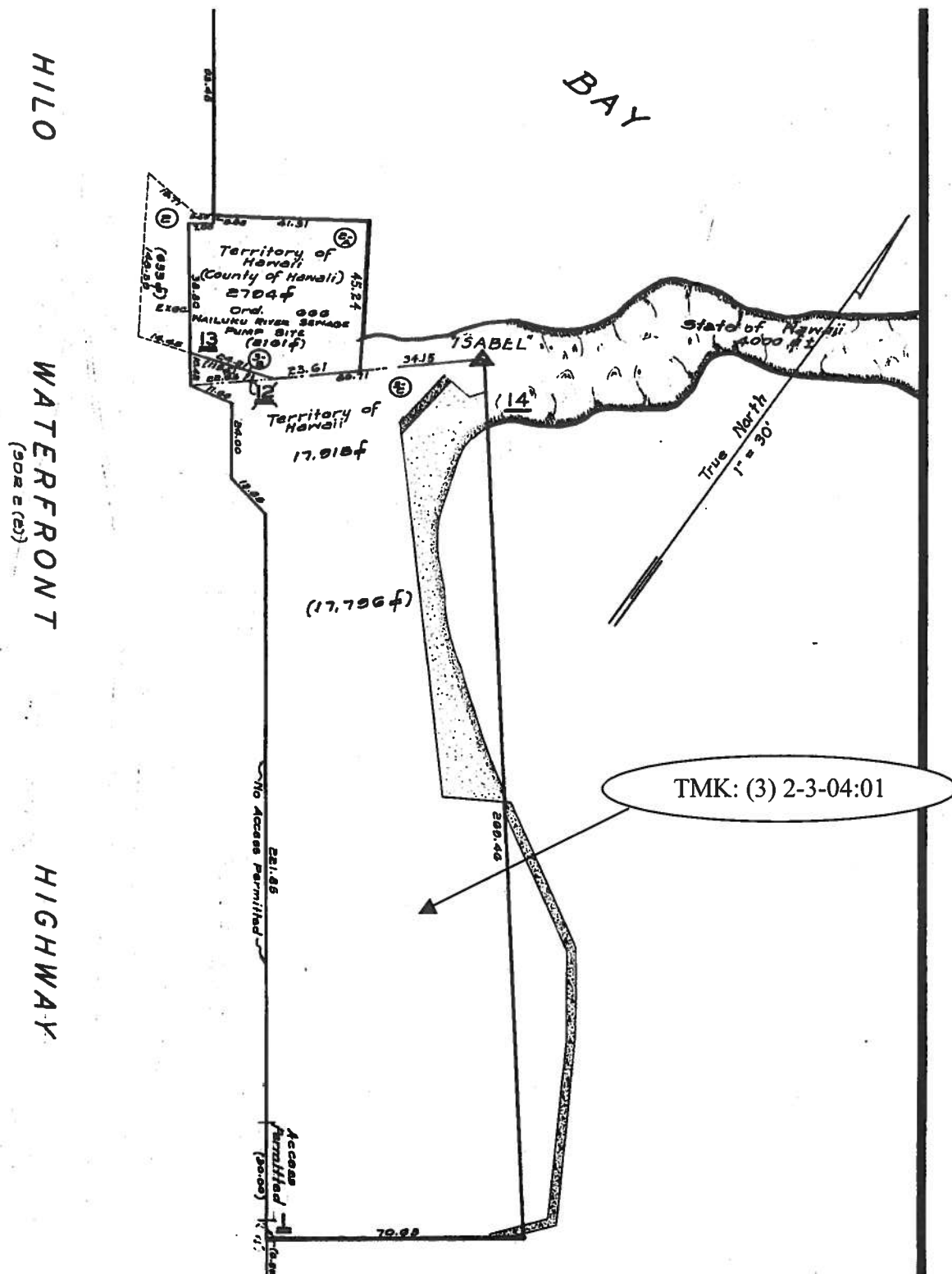


EXHIBIT A-2

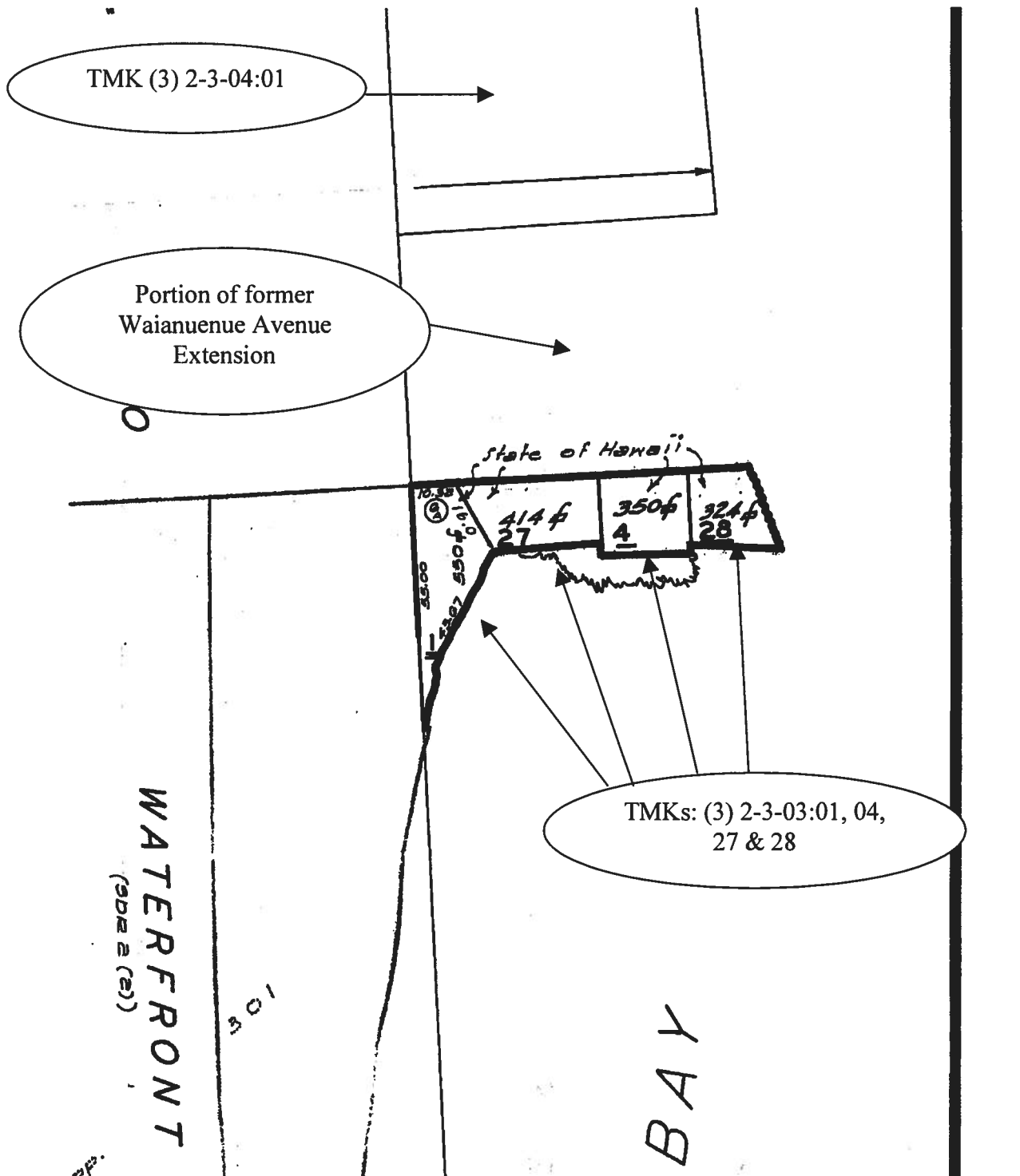
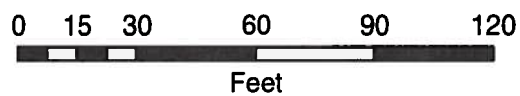


EXHIBIT A-3

Kaipalaoa Landing

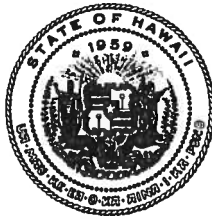


EXHIBIT A-4



LINDA LINGLE
GOVERNOR OF HAWAII

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to County of Hawaii for Park Purposes

Project Number: PSF No. 10HD-005

Project Location: Piihonua, South Hilo, Hawaii, Tax Map Key: 3rd/ 2-3-04:01

Project Description: Set aside of State lands to the County of Hawaii for future park development

Consulted Parties: Department of Land and Natural Resources (DLNR), Office of Conservation of Coastal Lands; DLNR Historic Preservation Office; Department of Transportation – Harbors Division; County of Hawaii Planning Department; and others

Exemption Class No.: In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment under the following:

Exemption Class No. 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

This action is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this

EXHIBIT B

action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements.

Recommendation:

The transfer of management jurisdiction over the lands from the State to the County of Hawaii in itself will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the proposed transfer is exempt from the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to the County of Hawaii's proposed use of the lands, the County of Hawaii shall be responsible for compliance with Chapter 343, HRS, as amended.

Laura H. Thielen, Chairperson

Date